

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

SHAVAUGHN CARLOS WILSON-EL,)	
)	
Petitioner,)	
v.)	No. 1:13-cv-1340-JMS-TAB
)	
ZATECKY,)	
)	
Respondent.)	

Entry and Order Dismissing Action

I.

Shavaughn Carlos Wilson-El, an Indiana prisoner, seeks habeas corpus relief with respect to disciplinary proceeding No. WVS 11-11-0008.

Indiana prisoners must pursue their available administrative remedies before filing a habeas petition. *Eads v. Hanks*, 280 F.3d 728, 729 (7th Cir. 2002); *Markham v. Clark*, 978 F.2d 993, 995 (7th Cir. 1992). The failure to do so, whether pertaining to the remedy as a whole or to the inclusion in an administrative appeal each claim which is later asserted in a federal habeas petition, constitutes a procedural default.

The pleadings and the expanded record in this action show that Wilson-El did not exhaust his available administrative remedies with respect to the disciplinary proceeding challenged here.¹ Specifically, Wilson-El did not timely file either of the two steps of the appeal process.

¹ Wilson-El has not replied to the respondent's motion to dismiss. The effect of this, pursuant to 28 U.S.C. § 2248, is that "[t]he allegations of . . . an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true."

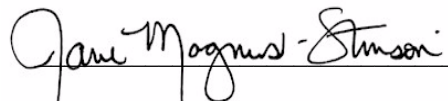
Wilson-El could overcome procedural default through a showing of cause and prejudice or that a fundamental miscarriage of justice would result if the merits of his claim are not reached. *Aliwoli v. Gilmore*, 127 F.3d 632, 634 (7th Cir. 1997) (citing *Coleman v. Thompson*, 501 U.S. 722, 750 (1991)). However, Wilson-El has not even responded the motion to dismiss, and has neither shown cause for nor prejudice from his failure to appeal. Accordingly, the court is precluded from reaching the merits of the claims in the petition. The petition for a writ of habeas corpus is therefore **denied**, the respondent's motion to dismiss [dkt. 9] is **granted** and this action is **dismissed with prejudice**.

II.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 12/30/2013



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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